

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company	:	
(Ameritech Illinois) and TDS Metrocom	:	
	:	
Approval of the Second Amendment to	:	03-0018
Interconnection Agreement dated	:	
December 10, 2002 pursuant to 47	:	
U.S.C. §§ 252 (a)(1) and 252(e).	:	

ORDER

By the Commission:

I. PRELIMINARY MATTERS

On January 14, 2003, pursuant to 83 Illinois Administrative Code Part 763, Illinois Bell Telephone Company, ("Ameritech") and TDS Metrocom, ("TDS") filed a joint request for approval of the Second Amendment to their Negotiated Interconnection Agreement, dated December 10, 2002, pursuant to 47 U.S.C. Secs. 252(a)(1) and 252(e) of the Telecommunications Act of 1996, 47 U.S.C. Sec. 151, *et seq.* ("the Act"). The Second Amendment to the Agreement was submitted with the request. A statement in support of the request was filed, along with verifications sworn to by Peter R. Healy, on behalf of TDS, and Eric Larsen, on behalf of Ameritech, stating that the facts contained in the request for approval were true and correct.

Pursuant to notice as required by law and the rules and regulations of the Commission, this matter came on for hearing by a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois, on January 30, 2003. Staff filed the Verified Statement of A. Olusanjo Omoniyi, a Policy Analyst with the Commission's Telecommunications Division, which was admitted into evidence. Mr. Omoniyi recommended approval of the Second Amendment to the Agreement. At the hearing, Staff, Ameritech and TDS indicated that there were no unresolved issues in this proceeding, and the record was marked "Heard and Taken."

II. SECTION 252 OF THE TELECOMMUNICATIONS ACT

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements regarding requests for interconnection, services or network elements. Ameritech and TDS have negotiated such an Amendment and they have submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that "[a]ny interconnection agreement adopted by negotiation . . . shall be submitted for approval to the State Commission." This Section further provides that a State Commission to which such an agreement is submitted "shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity." Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) "available for public inspection and copying within 10 days after the agreement or statement is approved."

Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

III. THE AGREEMENT

The Second Amendment to the Agreement is dated December 10, 2002, and it is coterminous with the original Agreement. The Amendment adds an Appendix entitled, "Illinois Recourse Credits" and it modifies the Table of Contents. The "Illinois Recourse Credits" are those credits that Ameritech is required to provide to TDS pursuant to 83 Ill. Adm. Code Sec. 732.35, to reimburse TDS for those customer credits paid by TDS when its customers experience a local exchange service violation that is caused by Ameritech.

IV. STAFF'S POSITION

Staff has reviewed the Second Amendment to the Agreement based on the standards set forth in Section 252(e)(2) of the Act. Under this Section, the Commission may only reject an agreement, or any portion thereof, adopted by negotiation under subsection: if it finds that (i) the agreement, or any portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement, or a portion thereof, is not consistent with the public interest, convenience and necessity.

Staff recommended that the Commission approved the Second Amendment to the Agreement, for the reasons set forth in the Verified Statement of Mr. Omoniyi. Mr. Omoniyi stated that the Second Amendment to the Agreement meets the standards set forth in the Act and that it is consistent with the public interest. Staff concluded that, since similarly-situated carriers can enter into essentially the same contract, the Amendment should not

be deemed to be discriminatory. Staff concluded that the Amendment does not discriminate against a telecommunications carrier that is not a party to the Agreement and that the implementation of the Amendment would not be inconsistent with the public interest, convenience or necessity. There are no contested issues in this docket. No party contended that the Amendment to the Agreement is discriminatory or contrary to the public interest.

In addition, Staff recommended that the Commission require Ameritech to file, within five (5) days from the date upon which the Amendment to the Agreement is approved, with the Office of the Chief Clerk, a verified statement that the approved Amendment to the Agreement is the same as the Amendment filed in this Docket with the Verified Petition. Staff also recommended that the Chief Clerk place the Amendment on the Commission's web site under "Interconnection Agreements." Staff's recommendations are reasonable and they should be adopted.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Illinois Bell Telephone Company and TDS Metrocom are "telecommunications carriers" as is defined in Section 13-202 of the Public Utilities Act;
- (2) the Commission has jurisdiction over the parties hereto and of the subject matter hereof;
- (3) effective December 10, 2002, Illinois Bell Telephone Company ("Ameritech") and TDS Metrocom have entered into the Second Amendment to their Negotiated Agreement, which Agreement has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;
- (4) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (5) the Agreement between Illinois Bell Telephone Company ("Ameritech") and TDS Metrocom does not discriminate against a telecommunications carrier not a party to the Agreement and it is not contrary to the public interest, convenience and necessity;
- (6) in order to assure that the Agreement is in the public interest, Illinois Bell Telephone Company ("Ameritech"), should implement the Amendment by filing, within five (5) days from the date upon which the Amendment is

approved, a verified statement with the Chief Clerk of the Commission, stating that the approved Amendment to the Agreement is the same as the Agreement that was filed in this docket with the Verified Petition. The Chief Clerk shall place the Amendment on the Commission's web site under "Interconnection Agreements;"

- (7) Illinois Bell Telephone Company ("Ameritech") should also place replacement sheets in its tariffs at the following location: "Agreements with Telecommunications Carriers:" Ill. C.C. No. 21, Section 19.15;
- (8) the Second Amendment to the Agreement should be approved as hereinafter set forth;
- (9) approval of the Amendment does not have any precedential effect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Second Amendment to the Agreement effective December 10, 2002, between Illinois Bell Telephone Company ("Ameritech") and TDS Metrocom is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that Illinois Bell Telephone Company ("Ameritech") and TDS Metrocom shall comply with findings (6) and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 12th day of March, 2003

(SIGNED) EDWARD C. HURLEY

Chairman